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T.R.A. DOCKET ROOM

March 11, 2004

Honorable Deborah Taylor Tate, Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243

04-00086

Re. Petition of Competitive Carriers of the South, Inc to Open a Rulemaking  
on Tariff Filings and Tariff Review Procedures

Dear Chairman Tate:

On behalf of the Competitive Carriers of the South, Inc. ("CompSouth"), I am filing today the attached Petition for Rulemaking regarding the TRA's procedures for filing and reviewing tariffs.

As you know, the telecommunications landscape continues to evolve rapidly and it is always a challenge for state and federal regulators to keep their rules and procedures up-to-date to reflect current market conditions. Because of all these changes, CompSouth believes that the agency should review its current rules on the filing and review of tariffs and consider whether changes are needed to streamline the process while preserving the agency's discretion to respond to the concerns of competitors and consumers.

Thank-you for your consideration of this Petition

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By *Henry Walker*  
Henry Walker *KG*

HW/p

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

**March 11, 2004**

IN RE: Petition of Competitive Carriers of the     ) Docket No. \_\_\_\_\_  
South, Inc to Open a Rulemaking on Tariff         )  
Filings and Tariff Review Procedures             )

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**PETITION FOR RULEMAKING**

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Pursuant to T C A. § 4-5-201(a),<sup>1</sup> and T C A. § 65-2-102 and § 65-4-124, the Competitive Carriers of the South, Inc (“CompSouth”)<sup>2</sup> petitions the Tennessee Regulatory Authority to open a rulemaking proceeding to update the agency’s rules and policies concerning the filing and review of tariffs for telecommunications services. In support of this petition, CompSouth submits the following

The Tennessee General Assembly has declared it the policy of the this state to permit competition among telecommunications providers, to protect consumers, and to promote the development of an efficient, advanced, telecommunications network. To implement that policy, the TRA has adopted rules regarding the filing of tariffs and adopted internal policies for the review of those tariffs. Those rules and policies have remained largely unchanged for several

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<sup>1</sup> T C A § 4-5-201(a) states, “[A]ny municipality, corporation or any five (5) or more persons having an interest in a rule may petition an agency requesting the adoption, amendment or repeal of such rule.” The statute also states that the petition “shall state clearly and concisely “ the substance of the rulemaking which is requested, the reasons for the request, and the petitioners’ interest in the request. The agency is required to either grant or deny the request “as promptly as is consistent with the orderly dispatch of its business.”

<sup>2</sup> The members of CompSouth requesting this rulemaking are Access Integrated Networks, Inc , Access Point Inc , MCI, Birch Telecom, Covad Communications Company, AT&T, NewSouth Communications Corp , Talk America, Nuvox Communications, Inc , ITC^DeltaCom, Xspedius Communications, Momentum Business Solutions, Network Telephone Corp , KMC Telecom, LecStar Telecom, Inc , Z-Tel Communications, Inc , and IDS Telcom LLC

years during which there have been significant federal and state regulatory developments as well as substantial changes in the competitive marketplace.

In light of these developments, CompSouth asks the Authority to open a rulemaking proceeding to update the agency's rules and policies on tariff filings and tariff review procedures. As competing local exchange carriers, the members of CompSouth have a strong interest in the prompt review and approval of tariffs so that new products may be quickly introduced into the market. At the same time, the members of CompSouth also have a strong interest in promoting competition and preventing price discrimination, cross-subsidies, preferences to affiliated entities, price squeezing, predatory pricing, tying arrangements, and other anti-competitive practices. Therefore, CompSouth members believe that the Authority must have substantial discretion to act, either on its own motion or in response to a complaint from a consumer or a competing carrier, to review, amend, suspend, and reject proposed tariffs which the agency determines are contrary to law, agency policy, or the public interest.

To that end, CompSouth recommends that the rulemaking address, among other things,

1. the appropriate period of time between the filing of a tariff and the tariff's effective date,
2. the agency's criteria for suspending a tariff,
3. the agency's criteria for opening a contested case proceeding to review a tariff,
4. appropriate differences between the filing times and review procedures applicable to tariffs filed by incumbent carriers and the times and procedures applicable to tariffs filed by competing local exchange carriers;
5. expedited procedures in those cases where the agency elects to convene a contested case proceeding to review a proposed tariff, and

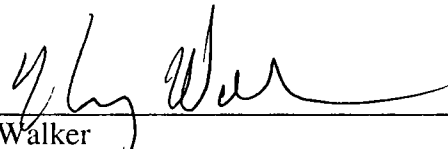
6. such other issues as the participants in the rulemaking may suggest and the agency believes are necessary and appropriate.

### **CONCLUSION**

CompSouth suggests that a rulemaking proceeding to update the agency's tariff filing and review policies is needed to implement the General Assembly's pro-competitive policies and to reflect the regulatory, legal, and marketplace developments which have occurred since the agency's current rules and policies were adopted. For these reasons, CompSouth asks that this Petition be granted and a rulemaking proceeding convened

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

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